

Message Text

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ACTION DLOS-04

INFO OCT-01 IO-11 ISO-00 AF-06 ARA-06 EA-07 EUR-12 NEA-10

FEA-01 ACDA-05 AGR-05 AID-05 CEA-01 CEQ-01 CG-00

CIAE-00 CIEP-01 OFA-01 COME-00 DODE-00 DOTE-00 EB-07

EPA-01 ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05

JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-03 OMB-01

PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06 SAL-01 /148 W

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E.O. 11652: GDS

TAGS: PLOS, US

SUBJ: LOS: SEABED CONSULTATIONS

1. SUMMARY. SMALL GROUP (BRAZILIAN GROUP) MET AGAIN MORNING FEBRUARY 5 TO CONTINUE CONSULTATIONS. GROUP TOOK UP ARTICLES TWENTY-TWO, TWENTY-FOUR, TWENTY-FIVE AND TWENTY-SEVEN. FULL ENGO GROUP MET PM TO DISCUSS ARTICLE TWENTY-TWO. END SUMMARY

2. BRAZILIAN GROUP (BRAZIL, US, CHILE, SINGAPORE, MEXICO, PERU, JAMAICA AND NORWAY) DISCUSSED ARTICLE 22 (FUNCTIONS OF THE AUTHORITY). TENTATIVE AGREEMENT WAS REACHED ON REVISED TEXT WHICH WOULD REFLECT PARALLEL EXPLOITATION SYSTEM. NEX TEXT WOULD PROVIDE THAT ALL ACTIVITIES IN THE AREA EITHER BY AUTHORITY OR STATE PARTIES ON BEHALF OF AUTHORITY WOULD BE CARRIED OUT IN FORMAL WRITTEN PLAN OF WORK. IN THE CASE OF ACTIVITIES IN THE AREA CONDUCTED ON BEHALF OF AUTHORITY BY STATES PARTIES, PLAN OF WORK WOULD BE IN FORMAT OF CONTRACT FOR EXPLORATION AND EXPLOITATION. FINALLY, EW TEXT WOULD PROVIDE THAT AUTHORITY WILL EXERCISE EFFECTIVE CONTROL OF QUOTE A GENERAL AND OVERALL NATURE
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IN RESPECT OF CONDUCT OF ACTIVITIES IN THE AREA. END QUOTE

3. DURING ENGO GROUP MEETINGS ON AFTERNOON OF FEB 5 AND 6, GROUP DISCUSSED ARTICLE TWENTY-TWO WHICH PROVIDED OPPORTUNITY FOR SMALL GROUP TO FILTER DOWN IDEAS FOR A DRAFT ARTICLE TWENTY-TWO. ON MORNING OF MONDAY FEBRUARY 9, ENGO SUBMITTED THE FOLLOWING TEXT OF REVISED ARTICLE TWENTY-TWO WHICH WAS IDENTICAL TO SMALL GROUP TEXT EXCEPT THAT THE WORD "CONVENTION" WAS SUBSTITUTED FOR "PART" IN THE FIRST SENTENCE OF PARA 3. ENGO EXPLAINED THAT THE USE OF THE WORD "CONVENTION" OR "PART" WOULD BE STRAIGHTENED OUT LATER.

QUOTE: 1. ACTIVITIES IN THE AREA SHALL BE CONDUCTED DIRECTLY BY THE AUTHORITY, AND ON ITS BEHALF, BY STATES PARTIES, OR STATE ENTERPRISES, OR PERSONS NATURAL OR JURIDICAL WHICH POSSESS THE NATIONALITY OF STATES PARTIES OR ARE EFFECTIVELY CONTROLLED BY THEM OR THEIR NATIONALS, WHEN SPONSORED BY SUCH STATES, OR ANY GROUP OF THE FOREGOING IN ACCORDANCE WITH THE PROVISIONS OF ANNEX I, THE RULES, REGULATIONS AND PROCEDURES OF THE AUTHORITY ADOPTED UNDER ARTICLE 28 (XI) AND THE STATUTE OF THE ENTERPRISE.

2. ALL ACTIVITIES IN THE AREA SHALL BE CARRIED OUT IN ACCORDANCE WITH A FORMAL WRITTEN PLAN OF WORK DRAWN IN ACCORDANCE WITH ANNEX I AND APPROVED BY THE COUNCIL AFTER REVIEW BY THE TECHNICAL COMMISSION. IN THE CASE OF ACTIVITIES IN THE AREA CONDUCTED ON BEHALF OF THE AUTHORITY SUCH A PLAN OF WORK SHALL BE IN THE FORM OF A CONTRACT OF EXPLORATION AND EXPLOITATION.

3. THE AUTHORITY SHALL EXERCISE EFFECTIVE CONTROL OF A GENERAL AND OVERALL NATURE IN RESPECT OF THE CONDUCT OF ALL ACTIVITIES IN THE AREA IN ACCORDANCE WITH THE PROVISIONS OF THIS CONVENTION, ANNEX I AND THE RULES, REGULATIONS AND PROCEDURES OF THE AUTHORITY ADOPTED UNDER ARTICLE 28 (XI). STATES PARTIES WHO SPONSOR PERSONS NATURAL OR JURIDICAL SHALL ASSIST THE AUTHORITY BY TAKING ALL NECESSARY MEASURES TO ASSURE COMPLIANCE BY SUCH PERSONS WITH THIS CONVENTION AND ANY CONTRACTS THEY MAY HAVE WITH THE AUTHORITY. END QUOTE

4. THERE WAS GENERAL AGREEMENT IN SMALL GROUP ON REVISION OF ARTICLE TWENTY-FOUR (ORGANS OF THE AUTHORITY). IT WAS AGREED TO ADD NEW PARA WHICH WOULD PROVIDE FOR ESTABLISHING ENTERPRISE AS CONFIDENTIAL

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ORGAN OF THE AUTHORITY WHICH WILL BE RESPONSIBLE FOR DIRECTLY CARRYING OUT ACTIVITIES IN AREA. GROUP AGREED TO DROP ENTERPRISE AS ONE OF PRINCIPAL ORGANS OF THE AUTHORITY (AS PROVIDED IN SNT). GROUP ACCEPTED US AMENDMENT ARTICLE TWENTY-FOUR WITH ADDITION OF PHRASE "EXCEPT AS OTHERWISE SPECIFIED" IN PARA 3. ISSUE WAS DISCUSSED IN ENGO GROUP AND ENGO CIRCULATED FOLLOWING TEXT ON FEBRUARY 9:

QUOTE: 1. THERE ARE HEREBY ESTABLISHED AS THE PRINCIPAL GOVERNING JUDICIAL AND ADMINISTRATIVE ORGANS OF THE AUTHORITY: AN ASSEMBLY, A COUNCIL, A TRIBUNAL AND A SECRETARIAT.

2. THERE IS HEREBY ESTABLISHED THE ENTERPRISE, THE ORGAN THROUGH WHICH THE AUTHORITY WILL DIRECTLY CARRYOUT ACTIVITIES IN THE AREA.

3. SUCH SUBSIDIARY ORGANS AS MAY BE FOUND NECESSARY MAY BE ESTABLISHED IN ACCORDANCE WITH THIS CONVENTION.

4. THE PRINCIPAL ORGANS SHALL EACH BE RESPONSIBLE FOR EXERCISING THOSE POWERS AND FUNCTIONS WHICH HAVE BEEN PROVIDED TO THEM AND SHALL, EXCEPT AS OTHERWISE SPECIFIED IN THIS CONVENTION AVOID TAKING ANY ACTIONS WHICH MAY IMPEDE THE EXERCISE OF SPECIFIC POWERS AND FUNCTIONS ENTRUSTED TO ANOTHER ORGAN. END QUOTE

5. DISCUSSION OF ARTICLE TWENTY-FIVE (THE ASSEMBLY) IN SMALL GROUP FOCUSSED ON A VARIETY OF SUGGESTIONS PUT FORWARD BY LDC'S FOR SOLVING DC CONCERNS WITH PROCEDURES FOR DECISION-MAKING IN ASSEMBLY THAT WOULD PROTECT INDISTRIALIZED COUNTRY INTERESTS. LDC'S INDICATED THAT THEY CONSIDER FRENCH MULTI-CHAMBERED APPROACH TO BE UNACCEPTABLE AND NON-NEGOTIABLE. HOWEVER, LDC REPS EXPLORED VARIETY OF PROCEDURES TO MEET OUR CONCERNS. SUGGESTIONS INCLUDED: (A) A VOTE ON SUBSTANCE WOULD REQUIRE TWO-THIRDS MAJORITY OF MEMBER STATES RATHER THAN TWO-THIRDS PRESENT AND VOTING. NOTE: EFFECT COULD BE SIMILAR TO A FOUR-FIFTHS MAJORITY OF THOSE PRESENT AND VOTING. (B) LDC'S WERE CONCERNED WITH US PROPOSAL TO REFER QUESTIONS TO TRIBUNAL ON REQUEST OF MEMBER STATES BECAUSE OF POTENTIAL CONFLICT BETWEEN THE TWO ORGANS, BUT DID INDICATE AN INTEREST IN A PROCEDURE WHEREBY PURELY LEGAL ISSUES (AS DISTINCT FROM POLITICAL) COULD BE REFERRED TO TRIBUNAL. (C) LDC'S SUGGESTED THAT VARIOUS COOLING OFF MECHANISMS BE EXPLORED WHEREBY CONFIDENTIAL

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THERE WOULD BE A DELAY BETWEEN A PROPOSAL FOR A VOTE AND TAKING OF ACTUAL VOTE. (D) A SYSTEM COULD BE ADOPTED BY WHICH SUBSTANTIVE DECISIONS BY ASSEMBLY WOULD NOT GO INTO EFFECT FOR SPECIFIED PERIOD OF TIME DURING WHICH MEMBER GOVERNMENTS COULD RECONSIDER THEIR VOTE AND, IF ONE-THIRD PLUS ONE OBJECTED TO ASSEMBLY DECISION, IT WOULD BE NEGATED. (E) LOS CONFERENCE RULES OF PROCEDURE COULD BE ADOPTED AS RULES OF PROCEDURE FOR THE AUTHORITY. LDC'S INDICATED WILLINGNESS TO CONSIDER ANY OF THESE OR A COMBINATION OR ADDITIONAL SAFEGUARDS.

6. GROUP THEN CONSIDERED ARTICLE TWENTY-SEVEN (THE COUNCIL) IN GENERAL TERMS. LDC REPS APPEARED TO REJECT WEIGHTED VOTING AND VOTING BY CHAMBER THOUGH THERE WAS NO OBJECTION TO DIVIDING COUNCIL INTO CHAMBERS FOR CONSULTATIONS PURPOSES. LDC'S INDICATED THEY WERE WILLING TO AGREE TO A VOTING SYSTEM BY WHICH

INDUSTRIALIZED COUNTRIES, ACTING TOGETHER AND WITH SOME SMALL SUPPORT FROM LDC'S COULD BE ASSURED OF A VETO.

7. AT MORNING MEETING OF SMALL GROUP OF FEB 6, SUBSTANTIVE PRELIMINARY DISCUSSION TOOK PLACE ON ANNEX I. MAIN ISSUES RAISED WERE QUOTA SYSTEM, BANKING SYSTEM, COMPETITIVE BIDDING, OPENING OF AREAS, FREE PROSPECTING AND PROFIT SHARING. DISCUSSIONS WERE DIFFICULT BUT CONSTRUCTIVE. RESULTS WERE INCONCLUSIVE. FRANCE WAS ADDED TO GROUP AT US REQUEST.

8. CANADIAN REP (CROSBY) ASKED US REP (RATINER) FOR BILATERAL CONSULTATIONS ON AFTERNOON FEB 5. GIST OF CANADIAN REMARKS WERE THAT CANADA WAS DEBATING ITS DOMESTIC POLICY VIS-A-VIS OCEAN MINING AND WAS TRYING TO DECIDE WHETHER TO BEGIN DRAFTING OCEAN MINING LEGISLATION AGAINST CONTINGENCY FAILURE OF CONFERENCE. CROSBY SAID, LIKE FISHERIES, CANADA WOULD NOT WISH TO BE FAR BEHIND IF US PASSES LEGISLATION. HE SPECIFICALLY WISHED TO KNOW WHETHER US LEGISLATION (METCALF BILL) WOULD PROVIDE INSURANCE PROTECTION FOR CANADIAN PARTNERS IN US-MANAGED CONSORTIUMS. RATINER INDICATED THAT LEGISLATIVE FRONT FAIRLY QUIET IN WASHINGTON RIGHT NOW SINCE CONFERENCE ABOUT TO CONVENE AND THAT IT PROBABLY PREMATURE CONSIDER DOMESTIC APPROACH BEFORE SEEING RESULTS SPRING SESSION LOS CONFERENCE. RATINER INDICATED LATEST METCALF THINKING TO EFFECT THAT INSURANCE MIGHT ONLY COVER COMPANIES WHO BRING RESOURCES TO US. CROSBY TOOK NOTE AND INDICATED POSSIBLE REQUEST FOR BILATERALS AFTER NY SESSION IN MAY.
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9. BRAZIL (THOMPSON-FLORES) ON MORNING FEB 6 AGREED IN PRIVATE CONVERSATION WITH US (RATINER) TO RAISE ISSUE OF SCIENTIFIC RESEARCH IN CI WHEN HE VISITS BRASILIA AT END OF WEEK FOR HIGH LEVEL POLICY REVIEW. HE SAID STRONG BRAZILIAN POSITION AGAINST FREEDOM OF RESEARCH IN CI MOTIVATED BY DESIRE TO HAVE COMPATABILITY WITH BRAZILIAN POSITION IN C III BUT THIS PROBABLY NO LONGER NECESSARY. HE PROMISED TO TRY TO GET MORE FLEXIBILITY FOR CI.

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